

Lina Khan Takes Charge of the Federal Trade Commission

Article By:

E. John Steren

Patricia M. Wagner

On June 15, 2021, in a 69–28 vote, the Senate confirmed Lina Khan to fill the current vacancy at the Commissioner level of the Federal Trade Commission (“FTC”). Immediately upon her confirmation, President Biden tapped Ms. Khan for FTC Chair. Since Ms. Khan has no prior experience at the FTC and is only 32, her appointment to lead the FTC took many by surprise. Although Acting Chair Rebecca Slaughter had been thought to be a likely candidate for the position since the departure of former Chair Joseph Simons, the administration took a different path.

The appointment of Ms. Khan as Chair of the FTC may alarm both big tech and large health care providers. Prior to joining the FTC, Chairperson Khan seemed to eschew the underlying principles that have guided antitrust enforcement since the 1970s, stating that the consumer welfare standard is “unequipped to capture the architecture of market power in the modern economy.”

With Chairperson Khan at the helm, antitrust enforcement may soon expand beyond traditional enforcement paths; although at this point it is unclear how that enforcement will be reconciled with the guiding principles of established case law.

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